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10/720,426	11/24/2003	Gary A. Walpert	93905.120 US2	5113
28089	7590	04/17/2008		
WILMERHALE/NEW YORK 399 PARK AVENUE NEW YORK, NY 10022			EXAMINER TANG, KENNETH	
			ART UNIT	PAPER NUMBER
			2195	
			NOTIFICATION DATE	DELIVERY MODE
			04/17/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/720,426	Applicant(s) WALPERT, GARY A.	
	Examiner KENNETH TANG	Art Unit 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the Amendments and Remarks filed on 1/22/08. Applicant's arguments have been fully considered and were found to be persuasive. However, a new non-final office action with new grounds of rejections has been presented, making the arguments moot.
2. Claims 1-14 are presented for examination, wherein claims 1, 6, 8, and 14 are independent.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Segarra et al. (US 4,466,063) (hereinafter Segarra).**

4. As to claim 1, Segarra teaches a method for operating a cooperative computer system (see Abstract) comprising the steps of

interconnecting a plurality of computers (Fig. 1, items 10, and 15, etc.) along at least one networking interconnection (communication network 14),

executing at a local computer a received computer program from a foreign computer (col. 2, lines 47-52) when the local computer has capacity to execute said received program based upon local computer operating requirements (col. 3, lines 9-33), and

returning to the foreign computer required information regarding execution of the foreign computer program (col. 2, lines 17-24, col. 3, lines 9-17).

5. As to claim 8, it is rejected for the same reasons as stated in the rejection of claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 6. Claims 2-7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segarra et al. (US 4,466,063) (hereinafter Segarra).**

7. As to claim 2, Segarra does teach executing at a local computer the received program from the foreign computer (col. 2, lines 47-52). Segarra also teaches determining the capacities and states of each computer and communicates this information fast to the other computers in the network so that a decision can be made on analyzing and selecting the optimal/best possible

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computer to execute (col. 3, lines 1-33). Segarra does not explicitly teach that this is done when the effect on a local user is minimal. However, one of ordinary skill in the art would have known that executing the foreign application program on the local computer would be done if the effect on the local user/computer would be minimal. This is because Segarra teaches the desire to find the best possible and optimal computer for allocation of the distributed system, and a computer (local computer, for example) that would execute with minimal effect on its resources could be considered the optimal or best possible computer for execution (col. 3, lines 9-33). In addition, Segarra discloses the facility for selecting the most available resource when there is a choice between several undedicated resources thus provides the advantage of reducing waiting time and balancing the load on the various units (col. 3, lines 30-33). Therefore, it is apparent that it would have been obvious to one of ordinary skill in the art to include the feature of executing the foreign application program on the local computer when the capacity and resource of the local computer is minimal to obtain the invention of claim 2.

8. As to claim 3, Segarra teaches further comprising the steps of interrupting execution of said foreign computer program to respond to a local user requirement (col. 3, lines 24-33, col. 6, lines 7-11, col. 8, lines 26-63).

9. As to claim 4, Segarra teaches further comprising the step of returning to the foreign computer, after said interruption, sufficient data and context information for continuing

execution of said interrupted foreign program on a computer other than the local computer (col. 2, lines 17-24, col. 3, lines 9-17, col. 8, lines 26-62).

10. As to claim 5, Segarra teaches further comprising the step of adjusting priorities in a multitasking local environment at the local computer for minimizing the effect on the local user (col. 14, lines 26-30).

11. As to claim 6, Segarra teaches a method for operating a cooperative computer system comprising the steps of

interconnecting a plurality of computers (Fig. 1, items 10, and 15, etc.) along at least one networking interconnection (communication network 14),

executing at a local computer a received computer program from a foreign computer (col. 2, lines 47-52) when the local computer has capacity to execute said received program based upon local computer operating requirements, and

interrupting execution of said foreign computer program when necessary to respond to a local user requirement (col. 3, lines 24-33, col. 6, lines 7-11, col. 8, lines 26-63),

returning to the foreign computer, after said interruption, sufficient data and context information for continuing execution of said interrupted foreign program on a computer other than the local computer (col. 2, lines 17-24, col. 3, lines 9-17, col. 8, lines 26-62), and

returning to the foreign computer, when there is no interruption, required information regarding execution of the foreign computer program (col. 2, lines 17-24, col. 3, lines 9-17, col. 8, lines 26-62).

12. Segarra does teach executing at a local computer the received program from the foreign computer (col. 2, lines 47-52). Segarra also teaches determining the capacities and states of each computer and communicates this information fast to the other computers in the network so that a decision can be made on analyzing and selecting the optimal/best possible computer to execute (col. 3, lines 1-33). Segarra does not explicitly teach that this is done when the effect on a local user is minimal. However, one of ordinary skill in the art would have known that executing the foreign application program on the local computer would be done if the effect on the local user/computer would be minimal. This is because Segarra teaches the desire to find the best possible and optimal computer for allocation of the distributed system, and a computer (local computer, for example) that would execute with minimal effect on its resources could be considered the optimal or best possible computer for execution (col. 3, lines 9-33). In addition, Segarra discloses the facility for selecting the most available resource when there is a choice between several undedicated resources thus provides the advantage of reducing waiting time and balancing the load on the various units (col. 3, lines 30-33). Therefore, it is apparent that it would have been obvious to one of ordinary skill in the art to include the feature of executing the foreign application program on the local computer when the capacity and resource of the local computer is minimal to obtain the invention of claim 6.

13. As to claim 7, it is rejected for the same reasons as stated in the rejections of claim 5.

14. As to claim 9, it is rejected for the same reasons as stated in the rejections of claim 2.

15. As to claims 10-11, they are rejected for the same reasons as stated in the rejections of claims 3-4.

16. As to claims 12-13, Segarra is silent wherein said interconnecting means comprises a fiber optic network or a token passing protocol. However, these are well known types of networking systems. Fiber-optic communication is a well known method of transmitting information from one place to another by sending light through an optical fiber. The light forms an electromagnetic carrier wave that is modulated to carry information. First developed in the 1970s, fiber-optic communication systems have advantages over electric transmission. Due to much lower attenuation and interference, optical fiber has large advantages over existing copper wire in long-distance and high-demand applications. Token passing networking protocol has been well known since July 1987. In telecommunication, token passing is a channel access method where a “token” is passed around between nodes that authorizes the node to communicate. The advantage over contention based channel access is that collisions are eliminated, and that the channel bandwidth can be fully utilized without idle time when demand is heavy. Therefore, it would have been obvious to modify Segarra’s network such that it would

be a fiber optic or have a token passing protocol to obtain the predicted results of the individual advantages as mentioned above.

17. As to claim 14, it is rejected for the same reasons as stated in the rejection of claim 6.

Response to Arguments

18. Applicant's arguments were fully considered and were found to be persuasive. However, new grounds of rejections have been made in this new office action, which render the arguments moot.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- **Talbott et al. (US 5,113,500)** discloses multiple cooperating and concurrently operating processors with the advantage of a small computer performing abilities of mainframe computers (see Title and Abstract).
- **Youngblood et al. (US 5,062,059)** discloses a distributed communication system between a Host CPU and remote terminal for optimizing resource allocation (col. 9, lines 16-24 and col. 10, lines 1-4).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth Tang/
Examiner, Art Unit 2195

/Meng-Ai An/
Supervisory Patent Examiner, Art Unit 2195